

**Fairbanks Gold Mining, Inc
True North Project Road**

**Right-of-way
ADL 416471**

Final Decision

I. Action Requested

Fairbanks Gold Mining, Inc. (FGMI) applied to the Division of Mining, Land and Water (DMLW), Department of Natural Resources (DNR) for a 100-foot wide private, non-exclusive right-of-way from the True North Project to the Steese Highway, and from the Steese Highway to the Ft. Knox Millsite Permit boundary. A general vicinity map is in Attachment 1.

Two alternative routes, South Pedro and North Pedro, have been applied for; however, the North Pedro alternative is FGMI's preferred route. The North Pedro alternative is shown on the map in Attachment 2.

The "South Pedro alternative" was initially applied for on March 28, 2000. This route generally follows existing roads from the True North Project boundary around the south side of Pedro Dome to the Fort Knox Millsite Permit Boundary. This route involved new construction to reduce the existing road grades and to reduce impacts on local residents. Under this alternative, a new intersection would be constructed where the road crosses the Steese Highway. This route crosses lands under the jurisdiction and management of the DNR, Mental Health Trust Office, and private land.

The "North Pedro alternative" was added to the application on May 26, 2000. This alternative requires new road construction from within the True North Project boundary around the north side of Pedro Dome to the existing Pedro Dome Road (Omnibus Act Road). Once this route connects with the existing Pedro Dome Road, this alternative follows the same route as the "South Pedro alternative" to Fort Knox Millsite Permit Boundary. This route crosses lands under the jurisdiction and management of the DNR and the Mental Health Trust Office.

This is the DNR's Final Decision on FGMI's right-of-way request to the DMLW to provide access from True North to Ft. Knox. This decision will:

- Establish the North Pedro alternative as a private exclusive right-of-way, subject to special stipulations, including valid, existing rights, on state owned and managed land. The right-of-way will be issued to FGMI. State owned and managed lands consist of School Trust land and other state land under the jurisdiction and management authority of DNR.
- Authorize the construction, use and maintenance of the existing rights-of-way consistent with 11 AAC 51.100 on lands owned by a third party where the state manages a state-owned easement either under RS 2477 or the Omnibus Act. This includes Mental Health Trust Lands and any land owned by a third party. These sections of road will remain public rights-of-way open to public use.
- Allow for the entrance into an agreement with FGMI for the construction, use, and maintenance of the True North Project Road to transport ore.

II. Scope of Review and Finding

In reviewing this project, DNR looked at whether the proposed use is an appropriate use of state land and whether it provides the greatest economic benefit to the state and the development of its resources. In making this determination, DNR has examined the reasonably foreseeable, significant effects of the construction and use of the True North Project Road, including the effects on state land, school land, and the RS 2477/Omnibus routes. DNR's decision evaluates the application with respect to material issues and facts, available land management information, public and agency comment, and DNR responsibilities under AS 19, AS 38.04, AS 38.05, and specifically AS 38.05.850. This decision discusses the potential effects in general terms that may occur with construction and operation of the right-of-way and the mitigation measures that DNR is imposing as terms of the right-of-way permit to reduce or eliminate possible adverse effects.

III. Authority

The authority to issue a private exclusive right-of way resides in AS 38.05.850. A private exclusive right-of-way is a right-of-way granted to a third party that is not available for use by the public. Construction and maintenance of the right-of-way are the responsibility of the third party. Due to recent legislative changes, rights-of-way issued by the DNR under the authority of AS 38.05.850 are exempt from the best interest finding requirements of AS 38.05.035(e). The amendment to AS 38.05.850, requires public notice before issuing the right-of-way if the director determines, by evaluation of the nature and duration of the intended use, that the right-of-way is not functionally revocable. These statutory provisions apply only to the proposed right-of-way on state land under the jurisdiction and authority of the DNR.

The authority for management of RS 2477 rights-of-way is AS 19.30.400. DNR regulation, 11 AAC 51.100, states a permit may be required under 11 AAC 96.010 for certain land use actions on RS 2477 rights-of-way. Since the selected North Pedro Dome alternative includes construction on RS 2477 roads, this decision will also address the permitting requirements for the right-of-way across RS 2477 land.

The Omnibus Quitclaim transferred title for Omnibus Act Roads to the State of Alaska. These roads are considered part of the highway system and managed by the Department of Transportation and Public Facilities (DOT/PF) under AS 19. The DNR will authorize the use of the Omnibus Act road involved in the True North Project with the concurrence of DOT/PF.

Under AS 38.05.801 and consistent with the Alaska Mental Health Enabling Act, the Alaska Mental Health Trust Land Office (TLO) is processing a separate authorization for that portion of the right-of-way on Mental Health Trust lands.

IV. Administrative Record

Right-of-way application file (ADL 416471), the Tanana Basin Area Plan (TBAP), and the RS 2477 files (RST 644, 1930, and 1932) comprise the administrative record for this request. DNR's Final Decision to issue a right-of-way for the True North Project along the North Pedro route is based upon a complete review of this record including the True North Project Description (February 2000, updated September 2000), Reclamation Plan (March 2000, updated September 2000), Socioeconomic Baseline Report (April 2000), Transportation and Maintenance Plan (September 2000/updated December 2000), Environmental Evaluation (September 2000), public comment and other supporting documents.

The "Decisions Overview and Preface for the True North Project" document dated December 20, 2000 is incorporated by reference into this final decision.

V. General Information

A. Legal Description and Title

The following table summarizes the land title, classification and road status for the North Pedro alternative. The access route crosses state mining claims in Sections 33 and 34. FGMI has an interest in all of these claims. See Attachment 3 for the map depicting land ownership.

LEGAL DESCRIPTION/TITLE/CLASSIFICATION/ROAD STATUS

NORTH PEDRO ALTERNATIVE

	<u>GRANT</u>	<u>STATUS</u>	<u>CLASSIFICATION</u>	<u>ROAD STATUS</u>	<u>LENGTH(ACRES)</u>
<i>T 3 N, R 1 E, FM</i>					
Sec 33 SE1/4	GS-1104	Patented 50-66- 0026	Minerals/Public Recreation TBAP 1-J-2	New Construction	860 ft (2.0ac)
Sec 33 SE1/4	GS-1104	Patented 50-66- 0026	Minerals/Public Recreation TBAP 1-J-2	RST 1932 ¹	700 ft (1.6 ac)
Sec 34 S1/2	GS-1104	Patented 50-66- 0026	Minerals/Public Recreation TBAP 1-J-2	New Construction	6310 ft (14.5 ac)
Sec 35 S1/2S1/2NE1/4	Mental Health Trust			FAS 6723	500 ft (1.1 ac)
Sec 36 W1/2, SE1/4	School 152	Patented 1227152	Minerals/Public Recreation TBAP 1-J-2	New Construction	5240 ft (12.0 ac)

¹ RST 1932: Little Eldorado Creek Road RS 2477

Sec 36 W1/2	School 152 Patented 1227152	Minerals/Public Recreation TBAP 1-J-2	FAS 6723 ²	1790 ft (4.1 ac)
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T 2 N, R 2 E, FM

Sec. 6 N1/2N1/2	Mental Health Trust Land	RST 644 ³	700 ft (1.6 ac)
Sec. 5 W1/2, SW1/4SE1/4	Mental Health Trust Land	RST 644	5100 ft (11.7 ac)
Sec. 8 NE1/4	Mental Health Trust Land	RST 644	2700 ft (6.2 ac)

B. Tanana Basin Area Plan and FNSB Zoning

The right-of-way is located within the lands subject to the Tanana Basin Area Plan (TBAP) in Subregion 1-Fairbanks North Star Borough, Management Subunit 1J2-Cleary Summit-Pedro. The primary surface use designation is Minerals/Public Recreation. The secondary surface use is Forestry. The use of this land for an access right-of-way between the True North Project and Ft. Knox is consistent with the designated use (minerals) identified in the TBAP in accordance with AS 38.04.065(f).

The Fairbanks North Star Borough (FNSB) has zoned this area General Use and Mineral Land. This right-of-way is consistent with the FNSB Comprehensive Land Use Plan policies for mineral development. Policy 7 states:

“Foster sand, gravel, and peat extraction and placer and hard rock mining in rural areas by:

- a. Discouraging public residential land disposals in areas of high mineral potential.
- b. Supporting provision of access to mining areas and transportation facilities for movement of mineral industry materials into and out of the Borough when economically feasible.

The FNSB Community Planning Department has indicated that this road is not subject to the FNSB platting ordinance Title 17.

See the “Decisions Overview and Preface for the True North Project” document, Chapter III. Project Evaluation Process for a complete discussion of the Role of the Tanana Basin Area Plan in the Review Process, Fairbanks North Star Borough Comprehensive Land Use Plan, and the FNSB Title 18 Zoning Ordinance Designation.

C. Background

² FAS 6723: Pedro Dome Road (Omnibus Road)

³ RST 644: Cleary Summit to Gilmore Dome Trail RS 2477

General location: The proposed True North Project is located on the northwest flank of Pedro Dome approximately 25 miles northeast of Fairbanks. The project area is presently accessed from Mile 20 on the Steese Highway by 6.5 miles of existing gravel road on the south side of Pedro Dome.

Area to be developed: FGMI has applied for an authorization to develop the Hindenberg and East Pit of the True North Project. Exploration is presently ongoing to identify additional resources in the area.

Operating period: The True North mine will operate 24 hours a day, 365 days a year. Mining was initially projected to begin in the third quarter of 2000 and continue for approximately three years on the Hindenberg and East pits. FGMI exploration crews are currently drilling to further define mineralization in the area. Exploration activities are anticipated to continue during the mine life to locate possible areas for expansion and associated mine development.

Ore haulage: FGMI plans to haul ore 24 hours a day, 365 days a year to the Fort Knox Mill using conventional highway tractor-trailer trucks. Each load will be 60 to 100 tons. Approximately 10,000 tons of ore per day will be hauled to the Fort Knox mine site. This equates to 100 to 170 truckloads to the mill daily.

D. Traditional Use Finding

In accordance with AS 38.05.830, a traditional use finding is not required for the right-of-way since it is within the Fairbanks North Star Borough.

VI. Public Participation, Notices and Hearings

The recent amendment to AS 38.05.850 requires public notice of the right-of-way if DNR determines the right-of-way is not functionally revocable. While this right-of-way has a fixed term and by its terms can be revoked at will by DNR, DNR has determined that the right-of-way is not functionally revocable for the purposes of this statute because of the road's purpose, the extent of construction necessary, and the intended public use of the road upon completion of mining. Construction of the road will require disturbance of the soils and changing of the grade of the natural terrain through cutting and filling. In addition, while the term of the road is 10 years, that term may be extended under certain conditions. Further, upon completion of the mining, the access road will be turned over to the state to provide access to Mental Health Trust lands, School Trust lands, and other state lands. In accordance with AS 38.05.850(c), DNR included this right-of-way in the public notice for the True North Project.

A complete discussion regarding the public notice and review can be found in the "Decisions Overview and Preface for the True North Project" in Chapter III. Public Notice and Public Participation for the True North Project.

VII. Transportation Alternatives

A. Ore Transfer Alternatives

At least three alternatives to transfer the ore from True North to the Fort Knox mine site were considered. Two trucking options (off-highway trucks and over-the-highway trucks) and a conveyor system were evaluated. The trucking alternatives were preferred ore transfer methods over the conveyor system. The other methods considered included a railroad, blimp, and some form of railed truck or driver assisted/guided trucking.

A conveyor system would be 12 miles long and would require a bridge across the Steese Highway. Given the terrain and distance and operating environment (extreme temperatures), there would be multiple transfer points, attendant motor drive units, bag houses for fugitive dust emissions and a greater potential for loss of material. Conveyor systems are very noisy and have high maintenance costs. For these reasons, and from practical experience, FGMI does not consider a conveyor system a viable alternative. For the reasons expressed above, DNR does not consider a conveyor system as a viable alternative.

With respect to the off-highway truck option, while the off-highway trucks can haul a larger volume of material per truck (thereby decreasing the required number of truck trips), this option would require the road to be closed to other vehicular traffic for safety considerations. Although the right-of-way will be private exclusive and allows FGMI to exclude the public from the right-of-way, the North Pedro route will be co-located on the Pedro Dome Road for 2400 feet and on existing RS 2477s for 9200 feet. The use of off-highway trucks on public roads would result in a safety hazard and would not be allowed. In addition, the off-highway trucks would likely have a greater noise impact on nearby residences. For these reasons, FGMI determined that the use of off-highway trucks is not a viable alternative. DNR concurs that off-highway trucks are not a viable alternative.

Over-the-highway trucks are the preferred alternative. The over-the-highway trucks do not present the safety, design, and cost concerns presented by the off-highway truck and conveyor belt options. While generally the over-the-highway trucks have a smaller load capacity than the off-highway trucks, by carefully specifying the truck/trailer design, it is possible to increase the payloads over conventional highway trucks. By increasing the payloads, FGMI can reduce the volume of truck traffic. Safety concerns are reduced over off-highway trucks and the roads can be used by the public where the public rights-of-way exist and by other mine-related traffic, such as vendors and mine tours. These over-the-highway trucks are designed and built to haul larger loads and to reduce the noise impacts. In addition, FGMI will install the Donaldson "Silent Partner" muffler system to reduce noise concerns and evaluating different lighting alternative to reduce light concerns raised by area residents. DNR concurs that over-the-highway trucks are the preferred transportation method.

B. Road Alternatives

FGMI has reviewed 8 different access road alternatives in an effort to reduce concerns raised by the public while selecting a safe and economic route. Some of these alternatives have been developed with public input. They are:

- Alternative #1: Barnes Creek/Fish Creek/South Pedro Dome Route – 9.2 miles;
- Alternative #2: Barnes Creek/Fish Creek/Bypass #1/South Pedro Dome Route – 9.2 miles;
- Alternative #3: Barnes Creek/Fish Creek/Bypass #2/South Pedro Dome Route – 10.6 miles;
- Alternative #4: Cleary #1 – 13.1 miles;
- Alternative #5: Barnes Creek/Fish Creek/Bypass #2/North Pedro Dome Route – 9.8 miles;
- Alternative #6: South Skoogy – 11.0 miles;
- Alternative #7: North Skoogy – 12.9 miles; and,
- Alternative #8: Cleary #2 – 13.1 miles.

The access road alternatives are shown on the map in Attachment 4.

FGMI's preferred route is Alternative #5, the North Pedro Dome route. The North Pedro route is somewhat shorter and places the road on the north side of Pedro Dome. This route provides an additional buffer for residences in the Skoogy Gulch area and below. The preferred route, in the vicinity of the Skiland homes is approximately 200 feet lower in elevation and 1100 feet away from the nearest home. Whenever a vehicle is on the road travels in the direction of Skiland residences, the grade will be downhill so the vehicle lights will be directed away from the residences. DNR is also requiring FGMI to research vehicle light alternatives in an effort to further reduce impacts to local residents. Based on the results of the research and trials, DNR, in its discretion, may require the use of these light alternatives. To further reduce impacts to these residences, all FGMI traffic will use the proposed route from the Steese Highway to the Fort Knox mine. This will divert mine traffic from Fairbanks Creek Road, which is used by the public to access the Skiland Subdivision and the Mt. Aurora/Skiland ski area, and which is closer to the these areas than DNR's chosen alternative.

In addition to the alternatives listed below, a variation of the preferred alternative was also evaluated. This proposal, submitted by the residents, moved the road further down the hill from the residents. This route basically follows the 2000-foot contour, crosses under the Steese Highway lower down the hill and then uses the North Pedro route west of the Cleary Summit Subdivision. While it was initially thought that this route would have less haul noise than the preferred North Pedro alternative, DNR's noise consultant, Harris, Miller, Miller and Hanson, Inc. (HMMH), has indicated that there would not be a substantial reduction unless there is a terrain feature (topography or shielding) to reduce the noise levels. The residents, in proposing this route, also wanted to restrict ore hauling to 12 hours per day. DNR eliminated this route alternative from consideration since it would not result in a substantial reduction of noise, this alternative included an ore hauling restriction, required more new construction, and it does not provide any

significant benefits over the North Pedro route. In addition, the TLO is not supportive of moving the road to this location since it would be less favorable to the development of trust lands and reduces the value of those lands.

The DNR also brainstormed routes that were similar to the 2000' contour route, but based upon the same reasons mentioned above, they provide no significant improvement over the North Pedro alternative.

The other FGMI alternatives are not preferred for the following reasons:

Alternative #1: This alternative follows the existing Fish Creek and Pedro Dome Roads, and uses the existing Steese Highway/Fish Creek intersection. Truck traffic on this route would go through the existing Cleary Summit Subdivision and be closer to the Skiland Subdivision residences than in the preferred alternative. Based upon information provided by FGMI, this route is 40 feet lower in elevation and approximately 330 feet away from the closest Skiland area residence. Light and noise is an expressed problem with this alternative due to its proximity with the local residences. The existing Fish Creek Road is a public right-of-way that does not have any use restrictions. The existing Steese Highway intersection sight distances are not sufficient and pose a significant safety hazard. Based upon a 55 MPH speed, a sight distance of 450 feet is required. Obtaining this required sight distance at this location is unlikely.

Alternative #2: This route is basically the same as Alternative #1, except a new intersection would be constructed approximately 792 feet southwest of the existing intersection and the road is slightly downhill from the existing Fish Creek road near the Skiland residences. Approximately 1 mile of this route is different from Alternative #1, otherwise it is the same alignment. This new intersection would meet the DOT/PF site distance requirements. This route is 80 feet lower in elevation and 520 feet away from the nearest residence. As with Alternative #1, light and noise are an expressed problem with this alternative. While this Steese Highway intersection location is better than the one in Alternative #1, the North Pedro alternative provides the best sight distances.

Alternative #3: The South Pedro Dome route was not considered as a viable alternative because the existing road does not meet FGMI's road design grades and extensive road reconstruction would be required. This alternative places mine-related traffic on public rights-of-way for more haul time than the North Pedro route. While the extent of new road construction would be less than the North Pedro route, this route would be in the view shed of everyone along the Steese Highway south of Pedro Dome. This route is also slightly more expensive to construct than the North Pedro Dome route.

Alternatives #4, #6, and #7: These routes are primarily new construction on Mental Health Trust Lands. At most, there is approximately one mile of DNR managed land involved in each route, with the exception of the North Skoogy alternative (#7) which uses a portion of the North Pedro route. Alternatives #4 and #7 also use part of existing public rights-of-way, Fish Creek and Barnes Creek roads. These routes are longer and more expensive than Alternative #3 or Alternative #5. In addition, all of these routes would require extensive engineering and construction to address the expansive aufeis problems in the vicinity of the proposed Steese Highway crossing. All the alternatives

have long downhill and uphill grades for trucks headed in both directions. This increases the safety risks for drivers hauling heavy loads. One advantage of these routes is that all truck traffic for FGMI would be off the Steese Highway above the Pedro Monument and onto a mine road, and there would be little noise or light impact to the local residents of Cleary Summit or Skiland. However, the potential impacts are shifted to the Pedro Monument area residents.

Alternative #8: This alternative was added in July to the list of possible routes. Cleary Summit and Skiland residents have recommended this route to FGMI. This route crosses approximately 1.75 miles of state owned and managed land, and is one of the longest alternatives at 13.1 miles. This route has basically the same length and cost as Alternative #4. While there is probably less aufeis along this route than Alternative #4, aufeis will probably still be a problem near the Steese Highway. This alternative has long downhill and uphill grades for trucks headed in both directions. This increases the safety risks for drivers and increases the truck cycle time for FGMI. One advantage of this route is that all truck traffic for FGMI would be off the Steese Highway before the Pedro Monument and onto a mine road, and there would be little noise or light impact to the local residents of Cleary Summit or Skiland. However, this potential impact would be shifted to residents living near the Pedro Monument. This alternative, based upon preliminary engineering, would be located in the drainages adjacent to local residents along the Steese Highway.

C. Road Design

An independent engineering firm has designed the preferred North Pedro route. The haul road design parameters are generally a 100-foot wide right-of-way, 32 foot running surface with a maximum grade of 6-8 percent. The road will typically have 2:1 back slopes and 2.5:1 fill slopes; however, 0.25:1 vertical rock slopes may occur in some areas. Since the road will be a private exclusive right-of-way that will be returned to DNR upon completion of mining, FGMI is required to design and build the road to DOT/PF specifications. FGMI is required to submit, to the DNR, the final road design, stamped by an engineer registered in Alaska. The DNR will either have the Department of Transportation review the road design to ensure it is appropriate for public use or have FGMI's engineer certify the road, as designed, meets DOT/PF specifications. See Attachment 6, Special Stipulation 11.

VIII. Authorization Alternatives

A. State-Owned Land

For state land owned and managed by the DNR, the DNR has the option of issuing a public, private non-exclusive, or private exclusive right-of-way.

The DNR could authorize the True North Project access as a public right-of-way issued to the DNR. The outcome would be one continuous public right-of-way on state land owned and managed by DNR as there are existing public rights-of-way co-located with the North Pedro route. This is not the Divisions preferred alternative because the TLO owns land along the route and a public right-of-way is not compatible with the private

easement being issued by the TLO, and the road is for mine traffic related traffic only. Issuance of a public right-of-way would encourage unauthorized use of the road on MHTL. In addition, issuance of a public right-of-way would result in increased safety risks due to the mixing of ore truck traffic with light vehicle traffic.

A private non-exclusive right-of-way issued to FGMI would mean FGMI is responsible for all construction and maintenance, but the public would be allowed to use the road. A private non-exclusive right-of-way is not compatible with the TLO's private easement. The TLO's authorization restricts public access on the road. DNR has eliminated this option for the same reasons that DNR has determined that a public right-of-way is not the preferred alternative.

A private exclusive right-of-way is DNR's preferred authorization. The private exclusive right-of-way will be subject to valid, existing rights (see Attachment 6, Special Stipulation 3 and 37), and FGMI will be responsible for construction, maintenance, and liability while the road is used for mining purposes (see Attachment 6, Special Stipulation 23). The TLO will be allowed to use the road for TLO related purposes (see Attachment 6, Special Stipulation 35). Upon completion of mining, the road will become public. The private exclusive right-of-way will be co-located with the Pedro Dome Road for 2400 feet and on existing RS 2477s for 9200 feet. FGMI's right-of-way will not affect any uses presently occurring on these public roads as FGMI's right-of-way will be subject to these public rights-of-way. At these areas of co-location, the impact to the public will be minimized through FGMI's selection of over-the-highway trucks. A private exclusive right-of-way is compatible with the TLO's private easement.

Where existing RS 2477 and Omnibus rights-of-way exist, regardless of the underlying land ownership, the DNR has management authority of the right-of-way. DNR regulations vest management authority for use of any RS 2477 right-of-way that is not on the Alaska Highway System, with the Commissioner of DNR. Regulation 11 AAC 51.100 states that "certain land use actions on RS 2477 rights-of-way, including road construction, may require a permit under 11 AAC 96.010." A land use permit is required because the equipment typically used in construction is not generally allowed to operate on state managed lands without an authorization.

All of the RS 2477s and the Omnibus Act road rights-of-way, for this project, are 100 feet wide. Any road construction beyond the 100-foot width must be authorized by the underlying landowner. While it is believed that all the construction will occur within the 100-foot width, this decision applies to any construction on DNR and school trust land outside the 100-foot width. See Attachment 6, Special Stipulation 38.

Where the RS 2477s or Omnibus Act roads are on state owned and managed lands, the DNR proposes to authorize the True North Project road by a private exclusive right-of-way, as previously mentioned. Where the RS 2477s or Omnibus Act roads are located on underlying land not under the jurisdiction and management of DNR, the DNR is authorizing FGMI's use of the state managed RS 2477 or Omnibus Act Road by land use permit. The TLO has been notified and is aware of this action by DNR.

Construction, maintenance, and use of the entire road is addressed by the “Agreement Among the Alaska Department of Natural Resources, Mental Health Trust Land Office and Fairbanks Gold Mining, Inc. for the Construction, Upgrade, Use and Maintenance of True North Project Road.” See Attachment 5 and Attachment 6, Special Stipulation 34.

B. RS 2477/Omnibus Act Rights-of-Way/Traditional Access

The RS 2477s along the North Pedro route cross DNR and TLO managed lands. The TLO Best Interest Decision states:

does not dispute either the existence of or the designated width (100 ft.) of the RS 2477 rights-of-way known as Gilmore Dome Trail (RST 644), the Pedro Dome Road (RST 1930), and the Little Eldorado Creek Road (RST 1932) asserted by the State of Alaska. The decision of the TLO to accept the asserted RS 2477 easements was based on the benefits of the project and not the facts associated with the asserted easement, which would have required unreasonable TLO resources to research and analyze. The TLO reserves judgement as to the existence of any other RS 2477 rights-of-way asserted to exist across Trust land by the State of Alaska.

Two RS 2477 routes coincide with portions of the North Pedro route. These routes were reported to the Alaska Legislature in 1999 for inclusion in AS 19.30.400(d). They are as follows:

RST 644 - Cleary Summit to Gilmore Dome Trail: Portions of this route were upgraded during the initial construction of the Fort Knox mine. FGMI will continue to use this section under the preferred alternative. This route is on Mental Health Trust Lands. FGMI proposes to construct a new intersection in Section 6 where the bypass enters this road, reconstruct the Fish Creek/Barnes Creek intersection, and upgrade the Barnes Creek Road to the Fort Knox Millsite Permit boundary in Section 8.

On May 17, 1999, a Public Right-of-way, ADL 416290, was issued to the DNR for the Gilmore/Cleary Summit Trail. This right-of-way is co-located with RST 644. The following statements are in the issued permit:

- It is understood and agreed that, as a condition to the granting of the right-of-way, the subject land shall be used for no purpose other than location, construction, operation and maintenance of the right-of-way for a public trail access route...; and,
- In the event that this right-of-way shall in any manner conflict with or overlap a previously granted right-of-way, the use of this right-of-way shall occur in such a manner as to not interfere with the peaceful use and enjoyment of the previously issued right-of-way.

In the above statement, “previously granted right-of-way” refers to RST 644, the RS 2477 for the Cleary Summit to Gilmore Dome Trail. The RS 2477 has the dominant right.

The TLO is aware of FGMI's intent to upgrade this RS 2477 as the DNR is coordinating the adjudication of this request with the TLO. Existing uses on the RS 2477 will not be restricted except at the Fort Knox upland mining lease boundary.

RST 1932 – Little Eldorado Creek Road: FGMI proposes to use a short portion of this historic trail system in its existing location within the True North Project boundary. The RS 2477 would be upgraded in Section 33.

The TLO is aware of FGMI's intent to upgrade this RS 2477 as the DNR is coordinating the adjudication of this request with the TLO. Use on the RS 2477 will not be restricted except at the project boundary.

Traditional Access: In accordance with AS 38.04.200, access along the Little Eldorado Creek RS 2477 through the True North millsite lease may be restricted by FGMI for the protection of public safety. In addition, the Barnes Creek Road section of the Cleary Summit to Gilmore Dome Trail RS 2477 through the Ft. Knox millsite lease may be restricted by FGMI for the protection of public safety. Access through the True North and Ft. Knox project areas must be coordinated with FGMI as active mining operations pose a safety risk to the public.

Omnibus Act Road – FAS 6723 – Pedro Dome Road: This route is the existing road from the Steese Highway to the top of Pedro Dome. The State of Alaska obtained title to this road under the Omnibus Act. DNR recognizes a 100-foot wide public right-of-way on this road. The Pedro Dome Road crosses state owned and managed land, including School Land, and TLO managed land.

Approximately one-quarter mile of the Pedro Dome Road will be upgraded on Mental Health Trust Land. On this section, DNR proposes to issue a land use permit to FGMI to construct or upgrade within the existing 100-foot public right-of-way. Any road construction beyond the 100-foot width must be authorized by the TLO.

Approximately one-half mile of the existing Pedro Dome Road will be upgraded on School Trust Land. This portion is discussed below as School Trust lands are managed by the DNR.

C. School Trust Land

Section 36 is School Land under the jurisdiction and management authority of the DNR. There has been litigation filed against the State regarding the management of School Trust lands. DNR Department Order 143, School Trust Lands Litigation, requires an approved action on School Trust Lands to be for the full, fair market value at the highest and best use of the parcel. If the action does not meet these criteria, the Commissioner must determine if the action may proceed.

FGMI proposes to upgrade the Omnibus Act Road and also proposes to construct new road on School Trust lands under the preferred alternative. Since the DNR manages School Trust Land, the DNR will issue a 100-foot wide private exclusive right-of-way to

FGMI. As previously mentioned, the private exclusive right-of-way will be subject to valid, existing rights (meaning the Omnibus Act Road), and be for the full, fair market value. This action is consistent with Department Order 143.

IX. Reasonably Foreseeable, Significant Effects

A. Potential Mineral Developments

Ryan Lode, Amanita, Steamboat/West ridge, and the Gil Extension are some of the known potential sites from which off-site ore could potentially be brought to Ft. Knox, via portions of the True North Project Road, for processing in the reasonably foreseeable future. Another potential site is located on the Gilmore Satellite Tracking Station. The State has entered into discussions with federal agencies concerning future acquisition by the State of a portion of PLO 3708, as amended by PLO 6709. This area is currently withdrawn for the Gilmore Satellite Tracking Station. Discussions have been held, but the federal government will not issue a decision until an evaluation is completed. A map showing the locations of the above sites is provided as Attachment 1.

Each proposal to transport off-site ore to Ft. Knox for processing must be independently evaluated at the time that a development proposal is submitted and the permitting process for the mine site is initiated. It is reasonably foreseeable at this time that potential impacts of those projects as currently proposed or projected may include additional traffic, noise, and lights, as well as safety and other concerns that may be associated with the proposed trucking routes for any off-site ores transported. These issues, as they arise in the context of the True North Project, are being considered in this decision. The other potential mining sites will be reviewed and analyzed for such effects and concerns when concrete development proposals are submitted to initiate the permitting processes. However, DNR has considered in general terms the potential effects that may occur from development of satellite mines.

In designating the primary and secondary uses of state land for the area, TBAP considered both mining and non-mining land use and management options. This right-of-way, for the purposes requested by FGMI, is consistent with the designated uses derived from the planning process.

More discussion of these issues can be found in the "Decisions Overview and Preface for the True North Project" in Chapter IV. Summary and Response to Comments, Section 7. Cumulative Effects.

B. Safety of the proposed Steese Highway intersection

In the original road design for the North Pedro route, FGMI proposed an on-grade intersection with the Steese Highway. This original intersection design met or exceeded all of DOT/PF's design requirements (sight and stopping distances) for an intersection at this location. However, in response to public comments, FGMI, with DNR's input, modified the design to include an underpass at the Steese Highway. This modification

eliminates the safety concerns of the travelling public due to fog and icy road conditions. There will still be on and off ramps at this location, however, no vehicles will be crossing the highway.

DOT/PF has entered into an agreement with FGMI for the design, construction, and maintenance of the underpass. Traffic during construction of the underpass will be routed on the west side of the underpass onto what will be the future on ramp and bypass. The underpass and all improvements within the Steese Highway right-of-way will be authorized by DOT/PF.

Additional information can be found in the "Decisions Overview and Preface for the True North Project" in Chapter IV. Summary and Response to Comments, Section 5.4. Steese Highway Intersection, Safety and Underpass.

C. Road dust and its effect on the Steese Highway and adjacent properties

Concerns have been expressed that the amount of truck traffic on the access roads will create a dust problem on adjacent properties and will reduce traction on the Steese Highway. This was a concern prior to FGMI's design change for an underpass. FGMI will chip seal the road from approximately the intersection of the haul road with the Pedro Dome Road easterly to Fish Creek Road. This will reduce the concern for dust in the vicinity of the subdivisions and the Mt. Aurora/Skiland area. FGMI uses calcium chloride on the Fort Knox roads and will continue this practice for the True North Project Road where it has not been chip sealed. This information is included in the Transportation and Maintenance Plan required by special stipulation.

More information can be found in the "Decisions Overview and Preface for the True North Project" in Chapter IV. Summary and Response to Comments, Section 5.8. Air Quality.

D. Noise concerns

A complete discussion of the noise concerns and analysis is found in the "Decisions Overview and Preface for the True North Project" in Chapter IV. Summary and Response to Comments, Section 5.6. Noise.

By special stipulation, DNR is requiring that FGMI's use of the haul road not cause the ambient statistical noise levels L_1 , L_{10} and L_{50} for any hour within the subdivisions to be greater than the levels specified below based upon the existing ambient noise. These standards are for True North/Ft. Knox related traffic.

Day (5 AM to 9 PM)

L_{50}	55 dBA
L_{10}	60 dBA
L_1	75 dBA

Night (9 PM to 5 AM)

L_{50}	45 dBA
L_{10}	50 dBA
L_1	55 dBA

FGMI will submit a Noise Monitoring Plan to DNR prior to commencing ore hauling. The Noise Monitoring plan will include short-term manned monitoring to ensure compliance with the noise standards. The plan will also include an element for vehicle monitoring to ensure compliance by each haul truck. If the monitoring shows that the standards are not met, FGMI will be required to submit a corrective action plan within 10 days. If the plan and continued monitoring does not show that the required levels are being met, FGMI will be prohibited from hauling ore from 10:30 PM to 3:00 AM.

DNR recognizes that there may be additional noise during road construction. Road construction activities should be scheduled to reduce the effect of construction noise in the residential area during the nighttime hours. Road construction activities are not subject to the standards established above for the True North/Ft. Knox related traffic.

E. Lights

A complete discussion of the light concerns is found in the "Decisions Overview and Preface for the True North Project" in Chapter IV. Summary and Response to Comments, Section 5.7. Lights.

By special stipulation, FGMI shall design the True North Project haul road such that there is no direct lighting from truck headlights to any of the residences in the area. FGMI will also experiment/evaluate alternative light sources and displacement measures to further reduce the effects of light intrusion to the surrounding areas. FGMI must submit to DNR a report of the experiment/evaluation by July 31, 2001. DNR reserves the right to require implementation of any or all of the measures to reduce the effects of lights.

F. General safety of public using of the road

Initially, this right-of-way was proposed as a public right-of-way. The TLO is issuing a private easement to FGMI for those portions of the haul road on trust lands. The TLO is retaining the right to use the road for trust purposes. DNR's right-of-way will be exclusive use with a stipulation allowing the TLO to use the road for trust related purposes. Other users may be allowed to use the road upon receipt of an authorization from DNR. An exclusive right-of-way means the responsibility for construction and maintenance of the road is FGMI's until the project is completed and the road is returned to the State. This road will only be used by FGMI for mine related traffic. A few areas on the DNR right-of-way are co-located with existing public rights-of-way, such as the RS 2477s and the Omnibus Act roads. The private exclusive right-of-way is subordinate to the public right-of-way in these areas. The road and all intersections will be signed to DOT/PF standards for safety. Co-mingling mine traffic with public traffic at the intersections and where the private exclusive right-of-way overlaps with existing public rights-of-way is deemed a safe and compatible use. FGMI will be allowed to temporarily close the public portions of the road for maintenance, movement of equipment or for other purposes when the activity poses a safety concern for the public. DNR will be

notified prior to any road closures. See Attachment 6, Special Stipulation 37. DNR is requiring FGMI to address signage, traffic patterns, and road closures as part of the Transportation and Maintenance Plan.

Additional information on safety can be found in the “Decisions Overview and Preface for the True North Project” in Chapter IV. Summary and Response to Comments, Section 5.4. Steese Highway Intersection, Safety, and Underpass.

G. Spill response

FGMI currently purchases its hazardous materials FOB the Fort Knox Security Gate. Any hazardous materials being delivered to Fort Knox are the responsibility of the trucking company until they are accepted by FGMI. Deliveries to the True North Project would be subject to the same conditions. FGMI has trained hazardous response people working at the mine and FGMI would most likely be the initial response for any spill along the True North Project Roads. FGMI has addressed this issue in Section 3.4.2 Accident/Spill Response of the Transportation and Maintenance Plan. The right-of-way permit will also, by stipulation, require FGMI to contact DNR and DEC in the event of spills. See Attachment 6, Special Stipulation 28 and 29.

H. Road construction and upgrading existing roads

Numerous access routes presently exist in the area, however, they are not suitable for the hauling of ore. FGMI reviewed these routes and selected the North Pedro route as its preferred alternative based upon design criteria and reduced effects to local residents. DNR also selected the North Pedro route. Existing routes do not meet the design and engineering requirements for transporting large amounts of ore. In addition the existing routes had effects (noise, lights, and safety) associated with them that are greater than those of the North Pedro route.

Additional information can be found in the “Decisions Overview and Preface for the True North Project” in Chapter IV. Summary and Response to Comments, Section 5.2. Existing Roads.

I. The construction of a high quality road may lead to additional land development in the area

New road construction could open up new areas for development. This could include land sales for residential or commercial uses, and land leases. Development could occur on DNR managed lands once mining has been completed. Presently, no new developments are planned on state land. DNR's right-of-way decision does allow for the TLO to use the road for trust related purposes. Both DNR and the TLO recognize this road as an asset that could lead to the future development of DNR, and Mental Health and School Trust lands. These trusts are established to provide funding for the beneficiaries of each trust.

J. Construction of the North Pedro route may effect the viewshed of local residents

Construction of the road will be in the viewshed of local residents and the public travelling the Steese Highway or others living north and south of Cleary Summit/Pedro Dome along the Steese Highway. DNR recognizes there are visual effects associated with this road, however, the road design and location reduces other more significant effects that have been expressed by the public. As necessary, FGMI will be required to stabilize and revegetate cuts and fills to reduce erosion. Revegetated cuts and fills may help reduce the effect of the road in the viewshed. FGMI will be required to address bank stabilization in the Transportation and Maintenance Plan. See Attachment 6, Special Stipulation 31.

X. Authorization Terms and Conditions

A. Transportation and Maintenance Plan

FGMI will be required to submit a Transportation and Maintenance Plan for the haul road to DNR prior to using the road to haul ore. This plan has already been prepared and submitted to DNR. The plan shall address road design, speed limits and road signage, safety, lights and mitigation, noise and mitigation, maintenance, and bank stabilization measures. The Noise Monitoring portion will be submitted prior to commencing ore hauling.

B. Road Agreement

FGMI will be required to enter into a separate agreement regarding the maintenance, insurance, liability, indemnity and operation of the road across DNR managed lands. The TLO will also be a party to this agreement. This document, Agreement Among the Alaska Department of Natural Resources, Mental Health Trust Land Office and Fairbanks Gold Mining, Inc. For Construction, Upgrade, Use and Maintenance of the True North Project Road (Use and Maintenance Agreement), will remain in effect for as long as FGMI requires use of the road for mining operations and reclamation. The Use and Maintenance Agreement will be reviewed periodically to evaluate continued need and amendments. The Use and Maintenance Agreement, to be executed before construction, is in Attachment 5.

C. State Material/Gravel Usage

FGMI will be required to pay for any state material/gravel removed from state land during the construction of the road on state land. Material may be used in place or on other state land. See Fees Section X.G. and Attachment 6, Special Stipulation 18.

D. Environmental Risk Assessment

The proposed activity involves the construction, operation and maintenance of the True North access road. No substances or fuels will be stored on the right-of-way. Fuel trucks will haul fuel and lubricants for the equipment, vehicle maintenance related fluids, ammonia nitrate, and heating oil to the True North project. The equipment driving the road will contain fuel, oil and hydraulic fluids. The roads east of the Steese Highway will continue to have the same kind of materials transported over them. FGMI has an emergency response plan for hazardous material, excluding petroleum products. Any hazardous materials delivered to FGMI are FOB the Fort Knox gate, therefore, the trucking companies are responsible for any spills enroute. FGMI will normally assist with any hazardous spills as initial response. Hazardous materials transported between Fort Knox and True North are the responsibility of FGMI. Stipulations in the right-of-way will address notification of hazardous material spills. See Attachment 6, Special Stipulations 28 and 29.

E. Survey/As-built

FGMI has surveyed the existing roads to determine their location and width prior to any construction or upgrading. FGMI will be required to provide the DNR with an as-built survey of the right-of-way for the entire constructed access road based upon DNR's as-built survey instructions. The as-built survey must also depict the existing RS 2477 and Omnibus road locations as they existed prior to construction. This information is required to determine if any construction occurred outside the existing rights-of-way. See Attachment 6, Special Stipulation 12.

F. Performance Guaranty/Indemnification/Insurance

Performance Guaranty: The DNR and the TLO will require an \$80,000 performance guaranty during the construction phase of the haul road. This guaranty may be used to either reclaim or complete portions of the road should construction begin and not be completed. This guaranty shall be payable to DNR and/or the TLO. It will be released after an initial road inspection upon completion of construction. See Attachment 6, Special Stipulation 5.

No performance guaranty will be required during the use of the right-of-way or for reclamation as DNR and the TLO have determined that the road will remain in place upon completion of any mining activities. This road is viewed as an asset by DNR, and the TLO, since it increases access to and therefore the value of these lands. The lands crossed include the DNR managed school trust lands, DNR lands, and the Mental Health Trust lands. FGMI is required, by the Use and Maintenance Agreement, to return the road to the state and the TLO in a condition that meets the design standards for public use, as determined by DOT, DNR, and the TLO.

Indemnification: FGMI assumes all responsibility, risk, and liability for all activities conducted by FGMI on the public rights-of-way, including construction, maintenance, and environmental and hazardous substances risks and liabilities that occur during its

use of the right-of-way. FGMI shall defend, indemnify, and hold harmless the state and its employees from and against any and all suits, claims, actions, losses, costs, penalties, and damages of whatever kind or nature, including all attorney's fees and litigation costs, arising out of, in connection with, or incident to any act or omission by or on behalf of FGMI on the rights-of-way, including acts or omissions of independent contractors, unless the sole proximate cause of the injury or damage is the negligence or willful misconduct of the state or anyone acting on the state's behalf. Within 15 days FGMI shall accept any such cause or action or proceeding upon tender by the state.

Environmental and hazardous substance risks and liabilities may survive FGMI's use of the road.

FGMI shall require that all indemnities obtained from all contractors and subcontractors of FGMI be extended to include the state as an additional named indemnitee.

See Attachment 6, Special Stipulation 2.

Insurance: FGMI will be required to maintain the same insurance limits for the True North Project as they have for Ft. Knox. The requirement for General Commercial Liability Insurance and Auto Liability Insurance is a combined single limit (including umbrella liability coverage) of not less than \$25,000,000 per occurrence/annual aggregate. FGMI is also required to have Professional Liability Insurance, Statutory Alaska Worker's Compensation and Employer's Liability Insurance, Pollution Liability Insurance and All Risk Property Insurance. All these are required by the Ft. Knox millsite permit. FGMI will extend this to cover the True North Project. See Attachment 6, Special Stipulation 6.

G. Fees

Right-of-way on state land: The fee for a private exclusive right-of-way is set by 11 AAC 050.010(e)(11)(B) as "an annual fee equal to the director's estimate of the yearly fair market rental value." By 11 AAC 050.010(f), "the director will, in the exercise of the director's discretion, require a higher fee than that set out in (e) of this section if the director determines that the location or nature of the use makes a higher fee appropriate to ensure a reasonable return to the state. In that case the fee will be based on the director's estimate of the fair market value of the use or, at the applicant's option and expense, based on an appraisal of the fair market value of the use." Pursuant to subsection .010(f), DNR is requiring a fee greater than the yearly fair market rental value, since this road will be used for the life of True North, the location and nature of the use makes a higher fee appropriate. FGMI will be required to obtain an appraisal to determine the full, fair market value at the highest and best use of state land. Instead of charging a yearly fee, DNR is imposing a one-time fee for the use of state land for the access road during the initial ten-year term of the right-of-way. If the right-of-way authorization is extended, DNR may impose additional fees. DNR will impose this same fee to each right-of-way on state owned and managed land, and lands where the DNR is authorizing construction, use and maintenance of RS 2477 or Omnibus Act road rights-of-way under a land use permit. This fee structure is consistent with that on School Trust and Mental Health Trust lands. See Attachment 6, Special Stipulation 18.

Right-of-way on School Trust Land: The right-of-way across School Trust Land will be valued the same as on MHT and DNR land. FGMI will be required to obtain an appraisal to determine the full, fair market value at the highest and best use of the School Trust land. DNR is imposing a one time fee at full, fair market value for the use of School Trust land. This is consistent with DNR Department Order 143. The School Trust Land litigants have reviewed the Proposed Decision during the public notice comment period and no comments were received from the litigants. See Attachment 6, Special Stipulation 18.

Material Pricing: The applicant will purchase any material that is removed from state owned land managed by the DNR, including school trust land, during road construction. The sand, gravel, and soft rock price (2000) is \$1.10 per cubic yard, if the amount is less than 2500 cubic yards, or \$1.00 if the amount is over 2500 cubic yards. The common rock price (2000) is \$1.50 per cubic yard, if the amount is less than 2500 cubic yards, or \$1.40 if the amount is over 2500 cubic yards. The applicant will be required to submit an accounting of the material removed from state land and pay for the material by a date to be specified in the early entry authorization/land use permit. This does not apply where the RS 2477 or Omnibus Act road is on land owned by a third party. See Attachment 6, Special Stipulation 18.

H. Right-of-way Term

The proposed term for the private exclusive right-of-way is 10 years. The Director of the DMLW may extend the right-of-way authorization if the road is required for the development of additional mineral resources. See Attachment 6, Special Stipulation 19.

I. Early Entry Authorization/Private Exclusive Right-of-way

Once the Final Decision becomes effective, DNR will issue FGMI a land use permit for early entry for construction and use of the right-of-way. Upon approval of the as-built survey and appraisal, the DNR will issue FGMI the private exclusive right-of-way. The land use permit will include the special stipulations listed in Attachment 6. The right-of-way stipulations will be revised to reflect only those associated with the long-term use and maintenance of the access road. Construction related stipulations will not be included in the right-of-way.

XI. Economic Benefits

Article VIII, § 1 of the Alaska Constitution states, "It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest." Granting of a right-of-way for an ore haul road between the True North Mine and the Fort Knox Mill is consistent with this policy.

The public interest is protected since the right-of-way, where it is co-located with public access routes, will not exclude the public access. The granting of a right-of-way for a

road will not exclude others from accessing adjacent lands from the road. Operations in the right-of-way must be conducted in a safe manner that would not unduly conflict with other users of the area, neighboring properties and residences. The right-of-way permit will specifically reserve to the State the right to grant additional authorizations to third parties for compatible uses on or adjacent to the land under the right-of-way. Further, the right-of-way permit will not convey an interest in state land and, by its terms, is revocable immediately with or without cause. By separate agreement the grantee will be required to maintain the road in a safe, operable condition, therefore not placing a maintenance burden upon the State. Development of the road will encourage the settlement of the neighboring state, School Trust, and Mental Health Trust lands in the future. Thus, the nature of a right-of-way interest, as well as the purpose for which it is sought (hauling ore) indicates that the grant of right-of-way is consistent with the public interest and is a good use of state land.

Issuance of a right-of-way for an ore haul road also would be consistent with surrounding land uses. The Cleary Summit / Pedro Dome area has a history of mining dating to before the founding of Fairbanks itself. Indeed, the right-of-way would pass within approximately three miles of Felix Pedro's original strike that began the stampede that resulted in the settlement of Fairbanks. The Steese Highway, which currently is the primary access to this area, was originally built by miners to access their claims. Many of the valleys in the area have been heavily placer mined since early in the last century. The recent construction and ongoing operation of the Fort Knox Mine testifies to the area's continued strong mining tradition that is manifest in state and borough land classification systems. In the State's TBAP, the True North Project area is in management Unit 1-J. Most of the project area falls under Subunit 1J2, which designates mining as a primary land use. The project falls under two designations in the FNSB Comprehensive Land Use Plan, a combination of "High Mineral Potential," and "Reserve Area." The latter designation means uses such as mining, agriculture, recreation, hunting, trapping, and fishing are all permitted until such time as a more specific highest and best use is identified.

In issuing a right-of-way under AS 38.05.850, Subsection (a) states that, "[DNR] shall give preference to that use of the land that will be of greatest economic benefit to the state and the development of its resources." In making its decision under 850(a), DNR looks at whether there is a competing project on the land that would bring greater economic benefit to the state and the development of its resources. In the case of the True North ore haul road there is no other project directly competing for use of the land. Some of the current uses of state land crossed by the right-of-way are viewshed, recreation, hunting, and tourism. There is no known industrial project directly competing for this land.

Issuing the right-of-way will permit the grantee to blend higher-grade ore from the True North Mine with lower grade Fort Knox ore, thereby protecting the Fort Knox project from lower gold prices and likely extending its life. Combined with the direct economic benefits from the True North project itself, this would have significant economic benefits to the greater Fairbanks area and to the State.

Capital development costs are estimated at between \$20 to \$30 million. At full operation, the permanent work force for the True North Mine would total 100 to 110 workers. The mine's estimated annual operating expenditures for labor, power and support services are \$14 million. The mine's direct annual payroll would be approximately \$5,400,000 (FGMI, 2000a). The mine's direct employment is estimated to eventually sustain another 120 to 132 jobs in the support sector, assuming an employment multiplier of 1.2. In addition to direct and indirect employment payrolls, the mine also would benefit the local private sector through purchases of supplies and services from local vendors. The mine initially would yield approximately \$20,000 in new property tax revenue for the FNSB at the 1999 mill rate. It is expected that the existing housing and service sectors would accommodate the increase in workers and their families with no strain.

The Fort Knox Mine creates 260 direct and 312 indirect jobs in the Fairbanks area (McDowell Group, 1999). It spends over \$35 million on local goods and services, mine spending generates a \$107 million impact on the FNSB economy, and the borough receives \$4.4 million in mine-related revenue. The mine's substantial power consumption reduces Golden Valley Electric Cooperative rates 7 percent for residential customers, 4 percent for small commercial customers, and 10 percent for large commercial customers (McDowell Group, 1999). In addition, Fort Knox Mine has spurred the growth of other mining efforts in the Fairbanks area, furthering development of the state's resources (McDowell Group, 1999). Under the scenario described in FGMI (2000x), development of the True North project would extend the life of the Fort Knox Mill for approximately half a year. Based on the economic values above, even this small extension of operating time would accrue substantial benefits to the area.

In addition, the fee charged FGMI for use of the access road provides additional economic benefit to the state. A direct, short term beneficiary of True North development would be the State's Mental Health Land Trust (MHLT) and School Land Trust as FGMI will be paying for use of the access road. Additionally, material for road construction may also be purchased from the MTLT.

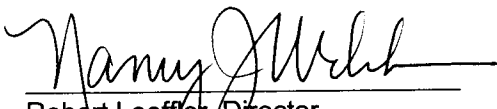
In the longer term the MHLT also would benefit. The trust owns the land under the Fort Knox Mill and presently receives an approximately \$150,000 annual rental for use of its lands by the mill, with that amount adjusted annually for inflation. Processing of ore from the True North Mine would extend the life of the Fort Knox Mill. Under the scenario described in Section 4.19.2 (Regional Mill Life), development of the True North project would extend the life of the Fort Knox Mill for approximately half a year, benefiting the MHLT by an additional \$75,000 in constant 2000 dollars. The access road will bring economic benefits to the state and the development of its resources also by increasing the value of neighboring lands by providing access to these parcels.

While not qualifying as a use directly competing for the land under the right-of-way, some residents in the vicinity of the right-of-way have expressed concerns that the purpose for the right-of-way, hauling ore from the True North Mine to the Fort Knox Mill, could cause them economic hardship. In issuing a right-of-way, DNR will require the grantee to take reasonable measures to mitigate these potential impacts. These measures have been outlined in this decision.

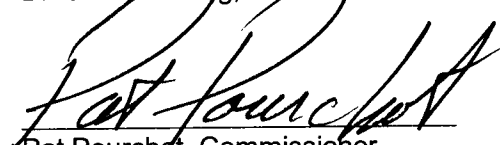
Viewed in its entirety, the economic benefits of issuing the right-of-way substantially outweigh any potential negative effects. In addition to the benefits to the grantee, the Fairbanks area would receive an immediate benefit from additional jobs, local spending, and taxes. In the longer term, development of True North would extend the life of the Fort Knox project approximately a half year, bringing an even greater benefit to the community. The Mental Health Land Trust also would benefit directly from True North development, as it would from extending the Fort Knox project's life. The potential impacts to local residents are not expected to be significant. Mitigation measures will be required of the grantee that will minimize noise and light effects. There also are some mitigation measures the residents could take to further minimize effects. Issuance of the right-of-way actually will remove approximately 348 vehicles from Fairbanks Creek Road, in front of several residences. Thus, overall, issuance of the right-of-way would provide the greatest economic benefit to the state and the development of its resources. All of these factors support DNR's determination that the access road provides the greatest economic benefit to the state and the development of its resources.

XII. Decision

In accordance with this document, the Department of Natural Resources finds that the FGMI's request to construct, maintain, and use the North Pedro Dome route as a private exclusive right-of-way to access the True North Project will provide the greatest economic benefit to the state for this land. FGMI is also authorized to construct, maintain and use the existing rights-of-way, discussed herein, consistent with 11 AAC 51.100.

for 
Robert Loeffler, Director
Division of Mining, Land and Water

December 20, 2000
Date


Pat Pourchot, Commissioner
Department of Natural Resources

December 20, 2000
Date

Appeal Right and Procedure

This is a final administrative order and decision of the department for purposes of an appeal to Superior Court. A person adversely affected by this final order and decision may (1) appeal to Superior Court within 30 days in accordance with the rules of the court, and to the extent permitted by applicable law, or (2) first request reconsideration of this decision, in accordance with AS 44.37.011 and 11 AAC 02.020, to Pat Pourchot, Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400,

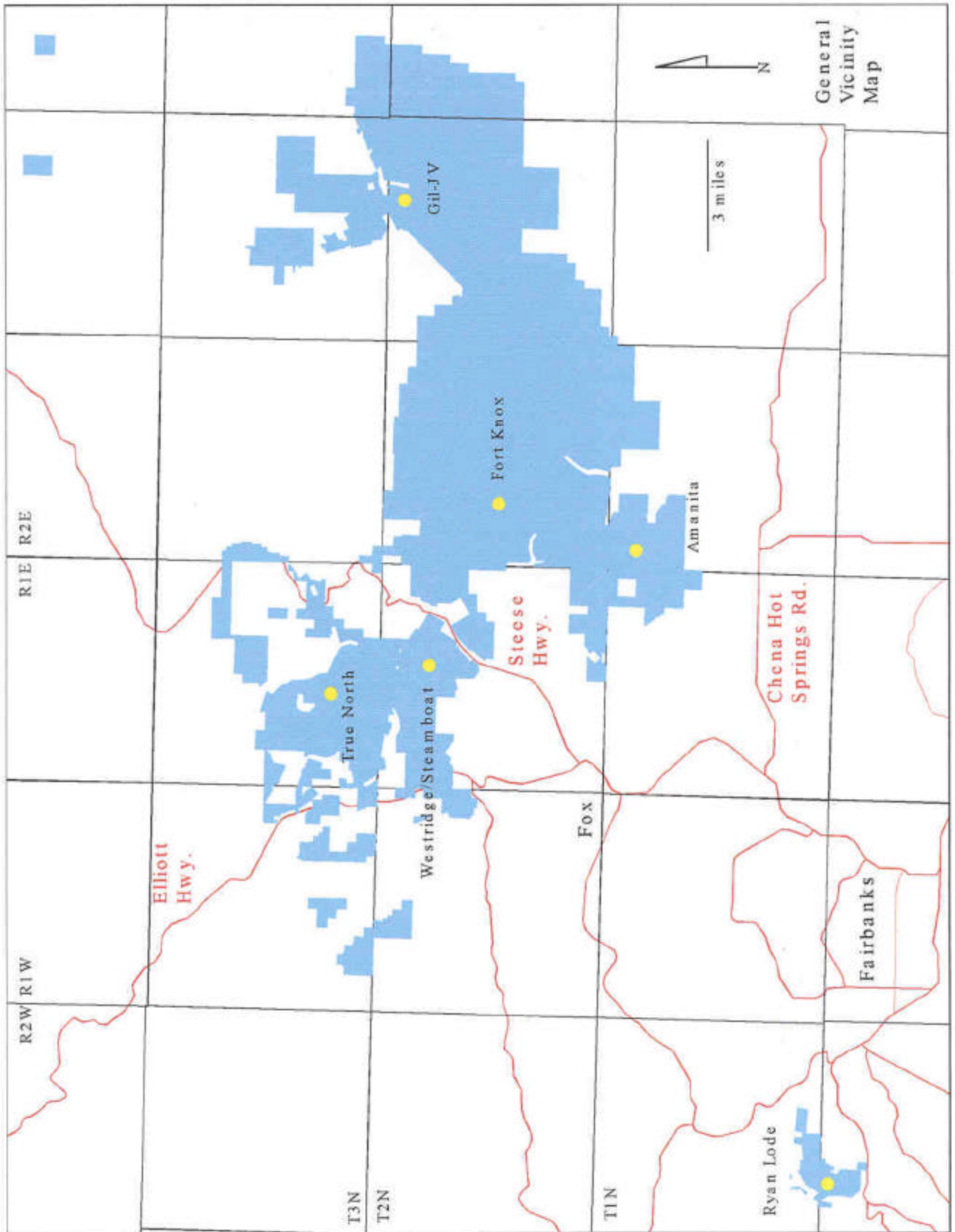
Anchorage, Alaska 99501. Any such request for reconsideration must be received at that address, or received by being faxed to 1-907-269-8918, by January 9 2001. Failure of the commissioner to act on a request for reconsideration by January 19, 2001 is a denial of reconsideration and is also a final administrative order and decision for purposes of an appeal to Superior Court. It may then be appealed to Superior Court within a further 30 days in accordance with the rules of the court, and to the extent permitted by applicable law. A copy of 11 AAC 02 may be obtained from any regional information office of the Department of Natural Resources. This decision goes into effect January 20, 2001 unless the commissioner first orders reconsideration.

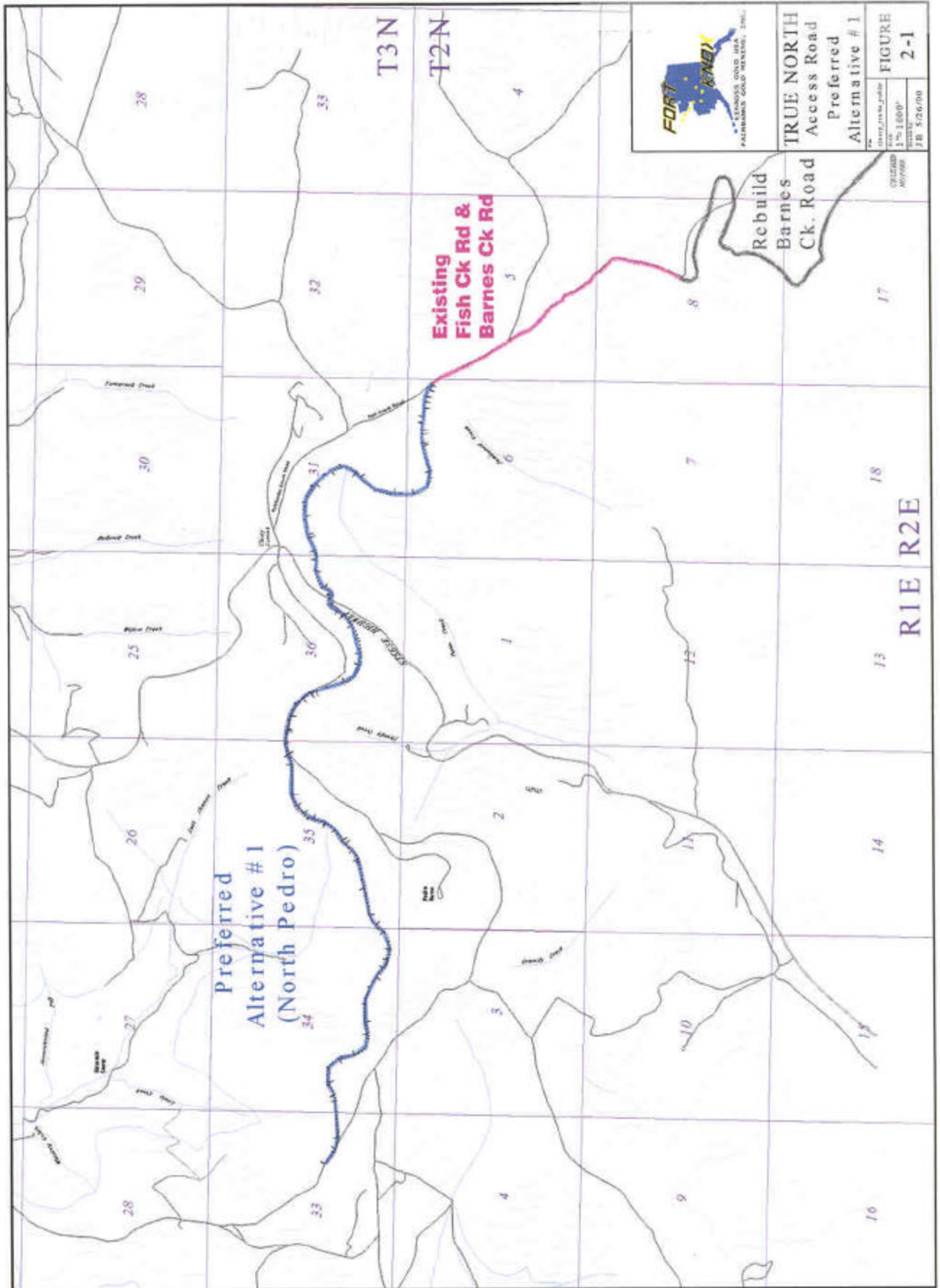
At the time a request for reconsideration is filed, an appellant may submit additional written material to support it, including evidence or legal argument. If the Commissioner orders reconsideration and if the Commissioner in his discretion under 11 AAC 02.050(a) further determines that there are questions of fact to be resolved that require a hearing, the hearing will be held in Fairbanks on January 16, 2001 at 10:00 A.M. at the Noel Wien Library. The hearing procedures under 11 AAC 02.050(b) will be announced at the time of his determination, if any. If a hearing is held, an appellant may submit additional written material at the hearing.

Attachments

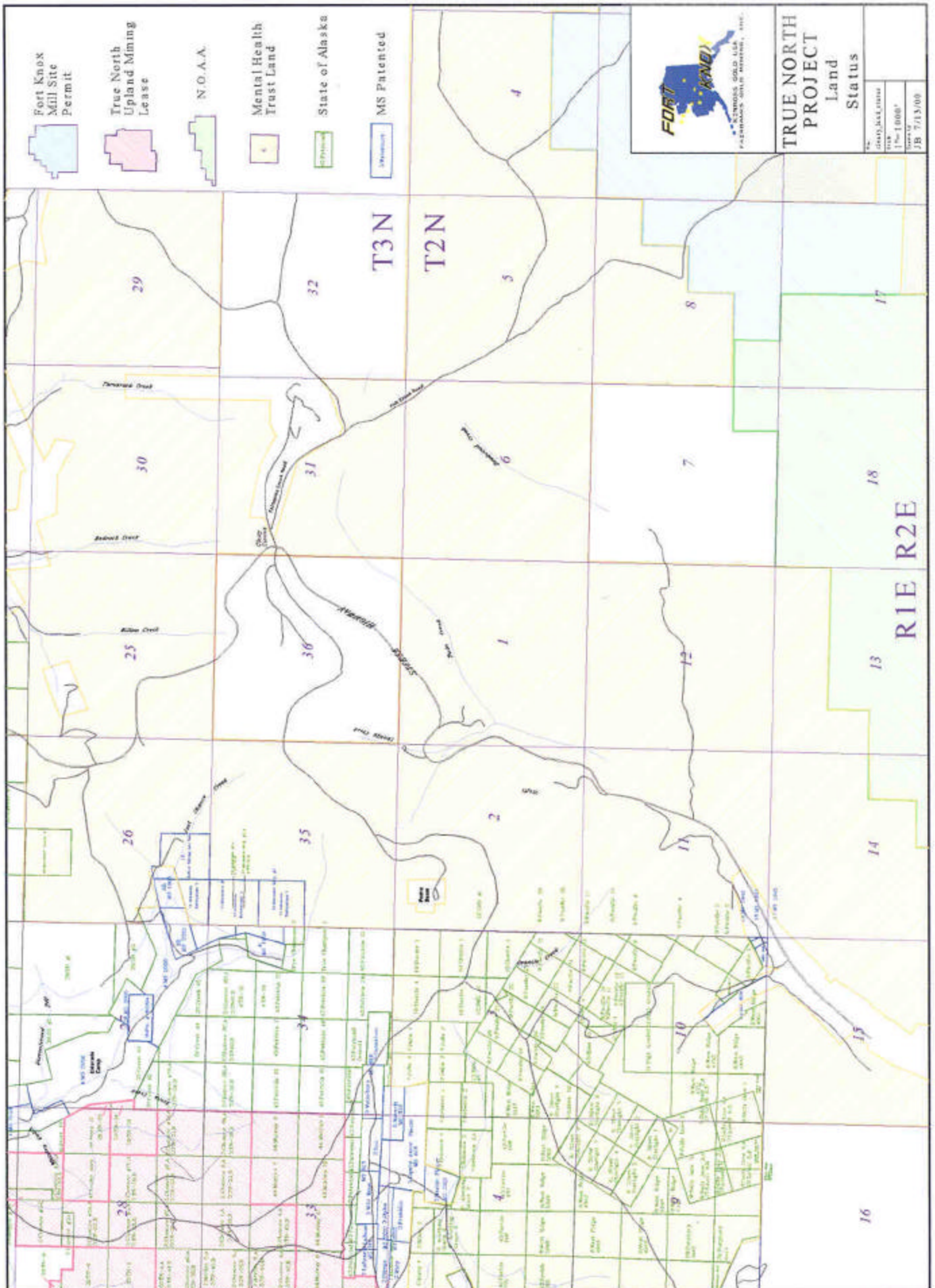
- Attachment 1: Vicinity Map
- Attachment 2: North Pedro Dome Alternative
- Attachment 3: Land Status Map
- Attachment 4: Alternative Map
- Attachment 5: Use and Maintenance Agreement
- Attachment 6: Special Stipulations

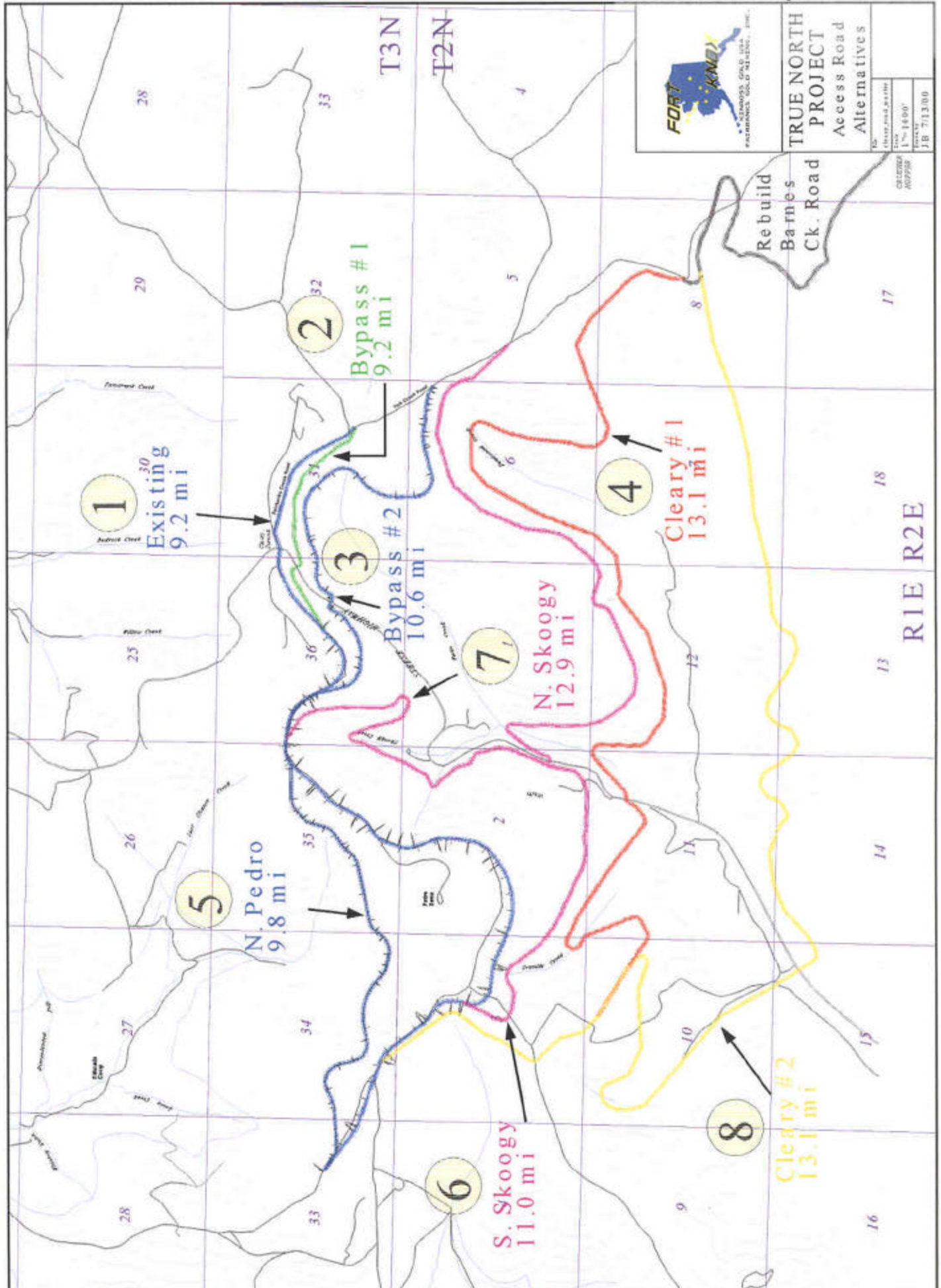
Attachment 1
Vicinity Map





Attachment 3
Land Status Map





ATTACHMENT 5

Agreement Among

**ALASKA DEPARTMENT OF NATURAL RESOURCES
And the
MENTAL HEALTH TRUST LAND OFFICE,
And
FAIRBANKS GOLD MINING, INC.**

**For Construction, Upgrade, Use and Maintenance
Of the True North Project Road**

Agreement Among
ALASKA DEPARTMENT OF NATURAL RESOURCES
And the
MENTAL HEALTH TRUST LAND OFFICE,
And
FAIRBANKS GOLD MINING, INC.
For Construction, Upgrade, Use and Maintenance
Of the True North Project Road

1. Definitions.

For purposes of this Agreement, the term "DNR" means the Alaska Department of Natural Resources, Division of Mining, Land and Water (DMLW).

For purposes of this Agreement, the term "TLO" means Mental Health Trust Land Office of the Department of Natural Resources, which manages Alaska Mental Health Trust lands on behalf of the Alaska Mental Health Trust Authority, a public corporation within the Department of Revenue (AS 47.30.011 et seq).

For purposes of this Agreement, the term "FGMI" means Fairbanks Gold Mining, Inc.

For purposes of this Agreement, the term "Design Plans" means the True North Project road upgrade and construction design plans which comply with Alaska Department of Transportation and Public Facilities (DOT) specifications and are approved by an engineer registered in the State of Alaska.

For purposes of this Agreement, the term "True North Project Road" means that certain road beginning at the Fort Knox Millsite Permit boundary and heading westerly to the proposed True North Project Millsite Lease to the location where the True North Project Road intersects the Little Eldorado RS 2477, as shown on the map attached hereto as Exhibit A.

For purposes of this Agreement, the term "Millsite Permit/Lease" means that certain Millsite Permit dated February 15, 1994, issued to Fairbanks Gold Mining, Inc. for the Fort Knox Mine Project (ADL Nos. 414960 and 414961) and the proposed True North Millsite Lease (ADL 416509), as these documents are revised from time to time.

2. Recitals.

Portions of the True North Road will upgrade existing access and remaining portions will be new construction.

DMLW, TLO and FGMI recognize that (a) the True North Project Road will be the principal means of surface access to and from the True North Mine Project during construction, operation and reclamation of the True North Mine, and (b) a portion of the road maybe used for transport of ore from other prospects in the future.

3. Construction, Upgrade, Use and Maintenance of True North Project Road.

FGMI shall, in accordance with the Design Plans, construct, upgrade, and maintain the True North Project Road. Upon the completion of construction and upgrade, FGMI shall

deliver to DMLW and the TLO a set of "as-built" plans and surveys for the True North Project Road.

From the date of this agreement until the completion of final reclamation as required by the True North Millsite Lease, FGMI shall maintain the portion of the True North Project Road west of the Steese Highway. From the date of this agreement until the completion of final reclamation of the Fort Knox Mine, FGMI shall maintain the portion of the True North Project Road east of the Steese Highway.

The True North Project Road will be used primarily as a private haul road to transport True North ore and to provide logistical support for both the Fort Knox Mine and True North Project. However, the portion of the road east of the Steese Highway will also be open and available for TLO related uses. The parties recognize that some portions of this road are public. FGMI shall take all reasonable measures to protect the public in these areas. In this regard, FGMI may have temporary road closures for maintenance or the movement of equipment or materials as may be necessary for public safety.

Prior to termination of this agreement DMLW, TLO & FGMI shall jointly inspect the True North Project Road. FGMI shall complete any identified repairs prior to a final inspection by DMLW & TLO. If the Steese Highway underpass is removed, FGMI will reconfigure the Steese Highway intersection so as to make it useable. Additionally, if requested to do so by either the TLO or DMLW, FGMI will erect gates or other barriers that are acceptable to the TLO or DMLW that will effectively close portions of the road to public access.

4. Indemnification.

FGMI shall indemnify and hold harmless the State of Alaska including the Mental Health Trust Authority and TLO and their employees from any claims, damages, losses and expenses arising out of (a) FGMI's construction, upgrading, use and maintenance of the True North Project Road, and (b) the intersection of the True North Project Road and Steese Highway, unless the sole proximate cause of the injury or damage is the negligence or willful misconduct of the State, the TLO, the Mental Health Trust Authority, or anyone acting on the their behalf.

5. Defaults.

Non-compliance with this Agreement will constitute a default under the applicable right-of-way or easement agreement and could result in termination of either the DNR right-of-way or the TLO easement, or both.

EFFECTIVE AS OF THE LAST DATE OF EXECUTION SET FORTH BELOW.

ALASKA DEPARTMENT OF
NATURAL RESOURCES

By: _____

Date: _____

FAIRBANKS GOLD MINING, INC.

By: _____

Date: _____

MENTAL HEALTH LAND TRUST OFFICE

By: _____

Date: _____

Attachment 6

FGMI True North Project Road Right-of-way
Special Stipulations

1. **Authorized Officer.** The Authorized Officer for the Department of Natural Resources is the Northern Regional Manager or designee. The Authorized Officer may be contacted at 3700 Airport Way, Fairbanks, Alaska 99709 or 907-451-2740. The Authorized Officer reserves the right to modify these stipulations or use additional stipulations as deemed necessary.
2. **Indemnification. Standard Stipulation #4 is amended to read as follows:.** FGMI assumes all responsibility, risk, and liability for all activities conducted by FGMI on the public rights-of-way, including construction, maintenance, and environmental and hazardous substances risks and liabilities that occur during its use of the right-of-way. FGMI shall defend, indemnify, and hold harmless the state and its employees from and against any and all suits, claims, actions, losses, costs, penalties, and damages of whatever kind or nature, including all attorney's fees and litigation costs, arising out of, in connection with, or incident to any act or omission by or on behalf of FGMI on the rights-of-way, including acts or omissions of independent contractors, unless the sole proximate cause of the injury or damage is the negligence or willful misconduct of the state or anyone acting on the state's behalf. Within 15 days FGMI shall accept any such cause or action or proceeding upon tender by the state.

Environmental and hazardous substance risks and liabilities may survive FGMI's use of the road.

FGMI shall require that all indemnities obtained from all contractors and subcontractors of FGMI be extended to include the state as an additional named indemnitee.

3. **Valid Existing Rights.** This authorization is subject to all valid existing rights in and to the land under this authorization. The State of Alaska makes no representations or warranties whatsoever, either expressed or implied, as to the existence, number, or nature of such valid existing rights.
4. **Reservation of Rights.** The Division reserves the right to grant additional authorizations to third parties for compatible uses on or adjacent to the land under this authorization.
5. **Performance Guaranty.** The permittee shall provide a surety bond or other form of security acceptable to the Division in the amount of \$80,000 payable to the State of Alaska DNR and/or the Trust Land Office. This guaranty may be used to either reclaim or complete portions of the road should construction begin and not be completed. Such performance guaranty shall remain in effect for the construction phase of this authorization and shall secure performance of the permittee's obligations hereunder. It will be released after an initial road inspection upon completion of construction. The amount of the performance guaranty may be adjusted by the Authorized Officer upon approval of amendments to this authorization, changes in the development plan, upon any change in the activities conducted or performance of operations conducted on the premises. If Permittee fails to perform the obligations under this permit within a reasonable time, the State may perform Permittee's obligations at Permittee's expense. Permittee agrees to pay within 20 days following demand, all costs and expenses reasonably incurred by the State of Alaska as a result of the failure of the permittee to comply with the terms of this permit. The provisions of this permit shall not prejudice the State's right to obtain a remedy under any law or regulation. If the

authorized officer determines that the permittee has satisfied the terms and conditions of this authorization the performance guaranty may be released. The performance guaranty may only be released in a writing signed by the Authorized Officer.

6. **Insurance.** FGMI is required to maintain the same insurance types and limits for the True North Project as Ft. Knox. The requirement for General Commercial Liability Insurance and Auto Liability Insurance is a combined single limit (including umbrella liability coverage) of not less than \$25,000,000 per occurrence/annual aggregate. FGMI is also required to have Professional Liability Insurance, Statutory Alaska Worker's Compensation and Employer's Liability Insurance, Pollution Liability Insurance and All Risk Property Insurance. FGMI will extend existing coverage to True North Project.
7. **Preference Right.** No preference right for use or conveyance of the land is granted or implied by this authorization.
8. **Alaska Historic Preservation Act.** The Alaska Historic Preservation Act (AS 41.35.200) prohibits the appropriation, excavation, removal, injury, or destruction of any state-owned historic, prehistoric (paleontological) or archaeological site without a permit from the commissioner. Should any sites be discovered during the course of field operations, activities that may damage the site will cease and the Office of History and Archaeology in the Division of Parks and Outdoor Recreation (907) 269-8720 and shall be notified immediately.
9. **Termination.** This permit does not convey an interest in state land and as such is revocable immediately, with or without cause.
10. **Assignment.** This permit may be transferred or assigned with prior written approval from the Authorized Officer.
11. **Road Design.** FGMI shall submit for review, prior to beginning construction, a complete set of road designs. An engineer registered in Alaska shall approve/stamp the road design plans. The DMLW will either have the Department of Transportation review the road design to ensure it is appropriate for public use or have FGMI's engineer certify the road, as designed, meets DOT/PF specifications. Drainage structures shall be adequate in size and number to maintain natural drainage patterns. They shall be properly located and maintained to prevent ponding and erosion.
12. **Survey.** The permittee shall submit a survey, depicting the as-built location of the road, acceptable to the standards of the DMLW prior to the expiration of the early entry authorization. The as-built survey must also depict the existing RS 2477 and Omnibus road locations as they existed prior to construction. This information is required to determine if any construction occurred outside the existing rights-of-way.
13. **Inspection.** Authorized representatives of the State of Alaska shall have reasonable access to the subject parcel for purposes of inspection. The permittee may be charged fees under 11 AAC 05.010(a)(7)(M) for routine inspections of the subject parcel, inspections concerning non-compliance, and a final close-out inspection.
14. **Compliance with Governmental Requirements; Recovery of Costs.** Permittee shall, at its expense, comply with all applicable laws, regulations, rules and orders, and the requirements and stipulations included in this authorization. Permittee shall ensure compliance by its employees, agents, contractors, subcontractors, licensees, or invitees.

15. Other Authorizations. The issuance of this authorization does not alleviate the necessity of the permittee to obtain authorizations required by other agencies for this activity.

16. Violations. This authorization is revocable immediately upon violation of any of its terms, conditions, stipulations, nonpayment of fees, or upon failure to comply with any other applicable laws, statutes and regulations (federal and state). Should any unlawful discharge, leakage, spillage, emission, or pollution of any type occur due to permittee's, or its employees', agents', contractors', subcontractors', licensees', or invitees' act or omission, permittee, at its expense shall be obligated to clean the area to the reasonable satisfaction of the State of Alaska.

17. Amendments. To proceed in areas other than approved, the applicant must have prior authorization from the Northern Regional Office of the Division of Mining, Land and Water.

18. Use Fee.

On state managed and owned lands, including School Trust Lands, FGMI shall pay a one time fee of \$_____. FGMI will be required to obtain an appraisal to determine the full, fair market value at the highest and best use of the state lands prior to the expiration of this early entry authorization. This fee will apply to the right-of-way width on state owned and managed land, including School Trust lands, and lands where the DMLW is authorizing construction, use and maintenance of RS 2477 or Omnibus Act road rights-of-way under a land use permit.

The use fee is due upon issuance of the right-of-way permit.

Material Pricing: FGMI will purchase any material that is removed from state owned land managed by the DMLW during road construction. The sand, gravel, and soft rock price (2000) is \$ 1.10 per cubic yard, if the amount is less than 2500 cubic yards, or \$1.00 if the amount is over 2500 cubic yards. The common rock price (2000) is \$ 1.50 per cubic yard, if the amount is less than 2500 cubic yards, or \$1.40 if the amount is over 2500 cubic yards. FGMI will be required to submit an accounting of the material removed from state land and payment for the material prior to issuance of the right-of-way permit. This does not apply where the RS 2477 or Omnibus Act road is on land owned by a third party.

19. Term: The term of the early entry authorization will be one year. The term of the right-of-way is 10 years. The Director of the DMLW may extend the right-of-way authorization if the road is required for the development of additional mineral resources.

20. Late Payment Penalty Charges. The permittee shall pay a fee for any late payment. The amount is the greater of either the fee specified in 11 AAC 05.010 or interest at the rate set by AS 45.45.010(a) and will be assessed on a past-due account until payment is received by the state.

21. Returned Check Penalty. A returned check fee as provided in 11 AAC 05.010 will be assessed for any check on which the bank refuses payment. Late payment penalties shall continue to accumulate.

22. Change of Address. Any change of address must be submitted in writing to the Authorized Officer.

23. Construction and Maintenance. The State assumes no responsibility for construction and maintenance of improvements constructed on state land nor liability for injuries or damages attributable to that construction.

24. **Forest Resources.** Timber less than six inches in diameter, brush, and slash shall be disposed of to minimize the risk of fire and disease. Marketable timber (6" DBH and larger) will be felled, limbed, topped at 4" diameter and stacked. To determine proper disposal methods, the permittee shall contact the Division of Forestry at 907-451-2600.

Clearing of vegetation shall be kept to the minimum necessary. Clearing shall only occur within the authorized area.

25. **Fire Prevention, Protection, and Liability.** The permittee shall take all reasonable precautions to prevent and suppress forest, brush, and grass fires and shall assume full liability for any damages to state land resulting from the negligent use of fire.
26. **Destruction of Markers.** All survey monuments, witness corners, reference monuments, mining claim posts, bearing trees, and unsurveyed lease corner posts shall be protected against damage, destruction, or obliteration. The permittee shall notify the Authorized Officer of any damaged, destroyed, or obliterated markers and shall reestablish the markers at the permittee's expense in accordance with accepted survey practices of the Division of Land.
27. **Site Maintenance.** The area subject to this authorization shall be maintained in a neat, clean and safe condition, free of any solid waste, debris or litter.
28. **Fuel and hazardous substances.** No fuel or hazardous substances may be stored on the right-of-way. The use and storage of hazardous substances by the permittee must be done in accordance with existing federal, state, and local laws, regulations, and ordinances. Hazardous substances must be removed from the site and managed in accordance with state and federal law. Debris (such as soil) contaminated with used motor oil, solvents, or other chemicals may be classified as a hazardous substance and must be removed from the site and managed and disposed of in accordance with state and federal law. The site shall be protected from leaking or dripping hazardous substances or fuel during construction and maintenance of the right-of-way. The permittee shall place drip pans or other surface liners designed to catch and hold fluids under the parked equipment and vehicles belonging to FGMI or its contractors, or the permittee shall develop an area for storage using an impermeable liner or other suitable containment mechanism.
29. **Notification.** The permittee shall immediately notify DNR and DEC by phone of any unauthorized discharge of oil to water, any discharge of hazardous substances (other than oil), and any discharge of oil greater than 55 gallons on land. All fires and explosions must also be reported.
- The DNR 24 hour spill report number is (907) 451-2678; the Fax number is (907) 451-2751. The DEC spill report number is (800) 478-9300. DNR and DEC shall be supplied with all follow-up incident reports.
30. **Public Access.** There shall be no interference with free public use of state lands.
31. **Transportation and Maintenance Plan.** FGMI will be required to submit a Transportation and Maintenance Plan for the haul road to DMLW prior to using the road to haul ore. The plan shall address road design, speed limits and road signage, safety, lights and mitigation, noise and mitigation, maintenance, and bank stabilization measures.

32. **Lights.** FGMI shall design the True North Project haul road such that there is no direct lighting from truck headlights to any of the residences in the area. FGMI will also experiment/evaluate alternative light sources and displacement measures to further reduce the effects of light intrusion to the surrounding areas. FGMI must submit to DNR a report of the experiment/evaluation by July 31, 2001. DNR reserves the right to require implementation of any or all of the measures to reduce the effects of lights.
33. **Noise.** FGMI's use of the haul road shall not cause the ambient statistical noise levels L_1 , L_{10} and L_{50} for any hour within the subdivisions to be greater than the levels specified below based upon the existing ambient noise. These standards are for True North/Ft. Knox related traffic.

Day (5 AM to 9 PM)		Night (9 PM to 5 AM)	
L_{50}	55 dBA	L_{50}	45 dBA
L_{10}	60 dBA	L_{10}	50 dBA
L_1	75 dBA	L_1	55 dBA

FGMI will submit a Noise Monitoring Plan to DNR prior to commencing ore hauling. The Noise Monitoring plan will include short-term manned monitoring to ensure compliance with the noise standards. The plan will also include an element for vehicle monitoring to ensure compliance by each haul truck. If the monitoring shows that the standards are not met, FGMI will be required to submit a corrective action plan within 10 days. If the plan and continued monitoring does not show that the required levels are being met, FGMI will be prohibited from hauling ore from 10:30 PM to 3:00 AM.

DNR recognizes that there may be additional noise during road construction. Road construction activities should be scheduled to reduce the effect of construction noise in the residential area during the nighttime hours. Road construction activities are not subject to the standards established above for the True North/Ft. Knox related traffic.

34. **Road Agreement.** FGMI is required to enter into a separate agreement regarding the maintenance, insurance, liability, indemnity and operation of the road across DMLW managed lands. The "Agreement Among the Alaska Department of Natural Resources, Mental Health Trust Land Office and Fairbanks Gold Mining, Inc. For Construction, Upgrade, Use and Maintenance of the True North Project Road" will remain in effect for as long as FGMI requires use of the road for mining operations and reclamation. The Use and Maintenance Agreement will be reviewed periodically to evaluate continued need and amendments. The Use and Maintenance Agreement will be executed before construction begins.
35. **TLO Use of Road.** The TLO has the right to use the road for trust related purposes.
36. **Road Closures.** FGMI may close the Little Eldorado Creek Road (RST 1932), the Barnes Creek Road (RST 644) at the boundaries of the True North Millsite Permit and the Ft. Knox Millsite Lease to protect public safety.

FGMI may temporarily close the public portions of the road (RST 1932, RST 644, and the Pedro Dome Rd) for maintenance, movement of equipment or for other purposes when the activity poses a hazard to public safety. DNR will be notified prior to any road closures.

37. **Right-of-way Subordination.** The True North Project Haul Road is a private exclusive right-of-way subject to valid existing rights. In the event that this right-of-way shall in any manner conflict with or overlap a previously granted right-of-way, the use of this right-of-way shall occur in such a manner as to not interfere with the peaceful use and enjoyment of the previously granted right-of-way, unless provided for by stipulation in this right-of-way.
38. **Construction on Public Rights-of-way (RS 2477s and Pedro Dome Rd).** This permit authorizes the construction, upgrade or use of the road constructed within the existing 100-foot rights-of-way on Mental Health Trust Land. Construction outside the right-of-way requires the land owners approval.